

**HIGH COURT OF UTTARANCHAL AT NAINITAL.**

**Writ Petition no. 1007 (S/S) 2005**

Neelu Sah W/o Sri Gopal Chandra Sah,  
R/o Prathmik Vidhyalaya Talaar,  
Halbagh, Distt. Almora.

---Petitioner.

Vs.

1.District Education Officer, Almora,  
2.Head Master, Prathmik Vidhyalaya Talaar,  
Hawalbagh, Almora,  
3. Director Basic Education, Uttaranchal,  
Mayur Vihar, Dehradun.

---Respondents.

Sri Sharad Sharma, learned counsel for the petitioner.  
Learned Standing Counsel for respondents.

**Hon'ble M.M. Ghildiyal, J.**

Heard Sri Sharad Sharma, learned counsel for the petitioner and learned Standing Counsel who accepts notices for the respondents.

The petitioner has challenged the order dated 29/30<sup>th</sup> June 2005 passed by the District Education Officer, Almora transferring the petitioner, who is a Primary School Teacher, from Talaar Hawalbagh to Bajgal Hawalbagh district Almora.

Submission of the petitioner is that on 14<sup>th</sup> June 2002, the petitioner was transferred from Primary School Bholana Nanahar Bhainsiachhana, district Bageshwar to district Almora. It appears that the said transfer order was passed on the representation of the petitioner itself because under the Act, the Primary School Teachers cannot be transferred from one district to another district and if they are transferred from one district to another district or from one local area to another

local area, seniority of those teachers shall be affected and they shall be placed at the bottom in the list of the teachers of that area. Contention of the petitioner is that by transferring her in 2002 she was placed at the bottom in the seniority list and now by the impugned transfer order she has been transferred, though within the same block, but on a wrong impression that she falls under the category of surplus teacher. I para-11 of the writ petition it is stated that in the Institution in question, there are many other teachers whose stay has been for a much longer period as compared to the petitioner, as such, there was no exigency to transfer the petitioner. Since the impugned transfer order indicates that the petitioner falls within the category of surplus teachers, the submission is contrary to the allegations made in para-11 to the writ petition wherein the petitioner has stated that there are so many teachers who have long stay in the Institution than the petitioner.

Learned counsel for the petitioner has submitted that in case, the petitioner falls within the category of surplus teachers then in that case the teachers, who have long stay in the Institution, should have been transferred.

In these circumstances, I direct the petitioner to make representation to the competent authority i.e. Basic Education Officer, Almora within three days from today and the Basic Education Officer shall decide the representation of the petitioner within ten days from the date of presentation of the representation by the petitioner alongwith the certified copy of this order.

Learned counsel for the petitioner has submitted that till the disposal of the representation; he may be permitted to continue in the Institution. The respondent no. 1 on receiving the representation from the petitioner may pass

suitable orders, if he thinks so, in case the petitioner has not already been relieved from the Institution.

With these directions, the writ petition in finally disposed of.

**(M.M. Ghildiyal, J.)**

July 21, 2005:  
NCM